illegally seized property has not been returned to the Petitioner; ongoing crimes have not been terminated; the conspiracy by officials to conceal the crimes has not been exposed and dealt with. These facts unmistakably point to the continued cover-up of the crimes by the authorities (the Court of Appeals for the D.C. Circuit included), and to a cataclysmic failure of the United States judicial system.

3. RESPONSIBILITIES AND FAILURES OF THE PRESIDENT

The President of the United States has full knowledge of, has condoned, and has actively participated in, this major criminal conspiracy. The Court of Appeals for the DC Circuit was requested to measure this fact against the President's Constitutional, statutory, and common law duties.

Article II of the United States Constitution declares in Section 1.1: The Executive power shall be vested in a President of the United States of America. Section 1.7 of Article II states that: Before he (the President) enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States". Section 3 of Article II of the Constitution states that: "The president ... shall take care that the laws be faithfully executed."

Statute 18 USC 4 demands that a President, just as any other citizen of the United States, report known crimes without delay to those in authority who will take care of the administration of justice. Statute 28 USC 535 demands from the President that crimes committed by government officers be reported to the Attorney General.

The common law duties of the President stem from the law on misprision of felony and from the common-law principle to refrain from willfully harming another through your acts or omissions.

The President willfully failed his Constitutional duties to take care that the laws be faithfully executed. He has also willfully neglected his statutory and common law duties regarding misprision of felonies and the reporting of crimes committed by government officers. These willful omissions by the President has aided and abetted the actions of the other conspirators and furthered the aims of the conspiracy to defeat the course of justice. By the dictates of 18 USC 371 and 18 USC 3, the President is a co-conspirator and an accessory to the 1.6 million crimes of the 220 government officers.

The willful neglect of duty deprived the Petitioner of his Constitutional right to protection of the law and the right to the restoration of illegally seized property. By reason of the President's reckless disregard of his Constitutional, statutory, and common law duties, the Plaintiff has suffered, and continues to suffer, harm and loss. The civil claim for damages against the President was instituted to redress the suffering and the losses caused to the Petitioner. The petition for mandamus to the Court was instituted to compel the President to obey the law and execute his statutory duties.

However, in an effort to protect the President and avoid the potential consequences of a public trial, this civil suit has met with further lawlessness in the United States District Court and Court of Appeals for the District of Columbia.

SUMMARY OF ARGUMENT

The judgment is void. The judgment is void because it is illegal. The judgment is illegal as it is a product of numerous criminal acts committed in the case by the presiding judges and by the counsel for the President.

The US District Court, D.C., held that the President possesses immunity from civil suit for crimes (and their common law counterparts) committed in his personal capacity. This ruling was upheld by the Court of Appeals. Yet, the courts have held that no citizen of the United States is above the law; neither members of Congress, judges, nor prosecutors - all ostensibly possessing absolute immunity. No citizen of the United States is immune from civil and criminal liability for crimes committed in his personal capacity.

The Court was petitioned to issue a writ of mandamus against the President for one purpose only: to command the President to obey the Constitution and the criminal statutes of the United States. The Constitution obligates the President to take care of the faithful execution of the laws regarding 1.6 million crimes – crimes that have corruptly been covered up by officials; crimes that have not been investigated or prosecuted. The writ was denied, thus sanctioning the President's (and co-conspirators') ongoing lawlessness. The formal sanctioning of crime is an illegal act.

ARGUMENT

4. CRIMINAL ACTS COMMITTED DURING THIS CASE

During the course of this case the presiding judges, the opposing counsel, and the President, have conspired to

perpetrate numerous criminal acts in order to obstruct the due process of the law and have the case dismissed. These actions render the judgment illegal and void.

4.1 Crimes Committed by President Bush

Pursuant to 18 USC 4, criminal charges against President Bush were filed directly with the District Court as Court Exhibit 3 in a document titled "State Supported Tyranny upon the Populace – The Culpability of President George W. Bush", dated May 10, 2004. This 32 page document reveals the extraordinary situation of the criminal liability of the President of the United States to 1.6 million crimes: Conspiracy, Obstruction of Justice, Misprision et al.

In addition to the crimes committed by President Bush detailed in that document, the President is an accomplice to the crimes committed on his behalf by his Defense Counsel. Petitioner also submits that the President is not an innocent bystander to the illegal behavior of the presiding judges either. Collusion can readily be detected in the illegal and unwarranted protection they provided to the President against liability for the crimes he committed - even at risk to the judges own interests.

4.2 Crimes committed by the President's Defense Counsel

The US Attorneys have a clear duty in law to prosecute the crimes committed by the President which fall under their jurisdiction. Their duties are mandated by 28 USC § 547. The US Attorneys for the District of Columbia have acted as Defense Counsel for the President in this civil claim for damages which is premised upon the very same crimes that the US Attorneys are obligated to prosecute. Acting on behalf of the President amounts to an untenable and serious conflict of interest in violation of the District of

Columbia Court of Appeals' Order No. M-165-88 of March 1, 1990. This act violates the criminal statute on 'Obstruction of Court Order', 18 USC § 1509.

The submission by the US Attorneys of the motion to dismiss the case is thus a criminal act. The sanctioning of this criminal act by both the District Court and the Court of Appeals in granting the motion to dismiss is illegal.

Question: Can the same US Attorney who has the statutory obligation to prosecute the President for crimes committed, defend the President in a civil suit arising out of those same crimes? **Answer:** No.

Question: Can the court sanction a criminal act by dismissing the case? **Answer:** No.

The Defense Counsel further violated numerous statutes, which are detailed in the motion to dismiss US Attorneys. (Court record, US District Court, D.C.) These crimes are briefly dealt with below. The Defense Counsel did not prosecute the known crimes as was their statutory duty, thereby violating 18 USC § 4 – Misprision of Felony. The Defense Counsel colluded with the criminal conduct of the President by turning a blind eye to, and thereby legitimizing, his illegal acts, violating 18 USC § 1505 – Obstruction of Justice. The Defense Counsel, knowing that offenses against the United States had been committed, assisted the offender in order to hinder or prevent his apprehension, trial, or punishment, violating 18 USC § 3 – Accessory after the Fact. The Defense Counsel, together with the President, conspired to violate the above laws, rendering them guilty of Conspiracy to Commit Offense - 18 USC § 371. These acts further contravened 28 USC § 547 – Duties of United States Attorneys, and 28 USC § 544 – Oath of Office of United States Attorneys.

These crimes were filed with the US Attorney's Office and with the Office of the President, on May 10, 2004, as well as with the courts. These crimes have simply been ignored.

4.3 Crimes committed by Judge Sullivan of the US District Court

Judge Sullivan provided protection to the President and his Defense Counsel for felonies committed during the sojourn of the case. Judge Sullivan concealed the pertinent crimes by failing to arrest the perpetrators required by Rule 4 of Federal Rules for Criminal Procedure and by violating the law on Misprision of Felony, 18 USC § 4. He provided a safe haven for their continued malfeasance. Judge Sullivan also failed to convene an independent counsel for the investigation of the President's crimes, violating 28 USC 591; nor did he forward the crimes of Defense Counsel to the Attorney General, violating the law on 'Investigation of Crimes involving Government Officers' - 28 USC 535 (b).

During the conduct of the case Judge Sullivan further violated the laws on Obstruction of Justice -18 USC § 1505; Accessory after the Fact (to the 1.6 million crimes of the President) - 18 USC § 3; Conspiracy to Commit Offense - 18 USC § 371; Oath of Office 28 USC § 453. These violations are detailed in the motion to disqualify Judge Sullivan which is part of the court record.

Petitioner requested Judge Sullivan to recuse himself from the case, according to the laws, because of these criminal acts. However, Judge Sullivan failed to recuse himself, thereby violating 28 USC § 455 and 28 USC § 144. Approximately ten days after criminal charges were lodged against the judge, he proceeded to dismiss the case and the

crimes. The ruling to dismiss the case was thus contrived in illegality.

Question: Is the judgment by Judge Sullivan legal?
Answer: No.
Question: Can a judge facing a request for his recusal as a result of crimes committed by him during the case, rule on that case?
Answer: No.
Question: Can a ruling which is a product of illegal acts by a judge be valid?
Answer: No.

4.4 Crimes committed by Judges Ginsberg, Henderson, and Garland of the US Court of Appeals for the D.C. Circuit.

The presiding judges had a statutory obligation in terms of 18 USC § 4 to address the more than 1.6 million crimes committed by the President, by his counsel, and by the District Court judge. The presiding Appeals Court judges were provided with probable cause and had a mandatory judicial duty pursuant to Rule 4 of Federal Rules of Criminal Procedure to arrest the President, his counsel, and the District Court judge. Authority to do so, and the prescribed course of action, is provided to the Court by 18 USC 3041. The Court thus has the power, the authority, and the duty to see to the administration of the law. Statute 18 USC 1505 prohibits the obstruction of justice via the failure of duty to administer the laws. Statutes 28 USC 535(b), 28 USC 591 and 28 USC 592, provide further obligations regarding the investigation of government officers.

Contrary to the dictates of their judicial duties and the law, Judges Ginsberg, Henderson, and Garland, ignored the crimes committed by the President, by his counsel, and by

the District Court judge, and intentionally omitted to perform their statutory obligations. The presiding judges dismissed the case without taking any action on the crimes which underlie this case. Criminal charges were filed against the judges with the Court of Appeals for Misprision of Felony; Obstruction of Justice; Accessory After the Fact to crimes committed by President George W. Bush; Conspiracy to Commit Offense; failing to investigate crimes involving Government Officers, and failing to initiate an independent counsel to investigate the crimes committed by President Bush; Conspiracy against Rights; and Deprivation of Rights under Color of Law.

Petitioner moved to disqualify Judges Ginsberg, Henderson, and Garland, from rehearing the case because of these criminal acts. These criminal violations are detailed in the motion to disqualify the judges, which is part of the court record. However, the judges illegally ruled on their own disqualification and failed to recuse themselves. The presiding judges dismissed the case and the crimes thereby violating 28 USC § 455 and 28 USC § 144, in addition to the other criminal violations mentioned above.

The ruling to dismiss the case was thus contrived in illegality.

Question: Is the judgment by Court of Appeals Judges Ginsberg, Henderson, and Garland legal?
Answer: No.
Question: Can the Court of Appeals uphold an illegal ruling from a lower court?
Answer: No.
Question: Can the Court of Appeals dismiss a civil case and crimes presented to them before those crimes, which form the substrata of the case, have been investigated?
Answer: No.

5. IMMUNITY

5.1 Immunity is not a defense for acts outside of official duties

The President cannot claim immunity, whether absolute or qualified, for his criminal deeds upon which this civil claim for restitution is based. The claim stems from harm and loss caused to the Petitioner for criminal acts and omissions (and their common law counterparts) committed by the President. (Court Exhibit 1 -'Dossier of Crimes'). Immunities are grounded in "the nature of the function performed, not the identity of the actor who performed it". Forrester v. White, 484 U.S. 219, 229-230 (1988). Crimes are acts of unofficial conduct and must not be seen to be acts 'in the nature of the President's functions'. "The principle rationale for affording Presidents immunity from damages actions based on their official acts—i.e., to enable them to perform their designated functions effectively without fear that a particular decision may give rise to personal liability, see Nixon v. Fitzgerald, 457 U.S. 731, 749,752,and n.32—provides no support for an immunity for unofficial conduct." Clinton v. Jones, Certiorari to U.S Court of Appeals, 8th Circuit (1997). Unless this court perceives deliberate and malicious criminal conduct to be part of the government's function and "official conduct", then this court must concede that willful criminal conduct committed by a President in full knowledge of the harmful consequences upon a subject of that President, is not conduct in the line of official duty. "But we have never suggested that the President, or any other official, has an immunity that extends beyond the scope of any action taken in an official capacity. See id., at 759 Burger, C.J. concurring, (noting that a president, like Members of Congress, judges, prosecutors, or congressional aides – all having absolute immunity—are not immune for

acts outside official duties)". Nixon v. Fitzgerald, 457 U.S. at 759, 761, n.4.

5.2 No man is above the law.

"The president, like all other government officials, is subject to the same laws that apply to all other members of our society..." [and that there is no] "case in which any public official ever has been granted any immunity from suit for his unofficial acts" [and that the rationale for official immunity] " is inapposite where only personal, private conduct by a President is at issue". Clinton v. Jones, Certiorari to U.S Court of Appeals, 8th Circuit (1997) (citing Judge Bowman). In his petition in the aforementioned case, President Clinton himself did "not contend that the occupant of the Office of the President is 'above the law'." Furthermore, Certiorari to the U.S Court of Appeals quotes the book 'Debates on the Federal Constitution 480 (2nd ed. 1863), where author J. Elliot quotes James Wilson at the Philadelphia Convention as stating: "Although the President is placed [on] high, not a single privilege is annexed to his character; far from being above the laws, he is amenable to them in his private character as a citizen, and in his public character by impeachment".

5.3 Exception to absolute immunity related to cover up of crime

There can be no immunity granted when the President is involved in cover up of crimes. There is an important exception to absolute immunity when it is connected to crimes and the cover up of crimes. This exception is profoundly applicable in this suit in which numerous crimes by government officials - which crimes underpin this suit - have been covered up and swept under the carpet by officials, as well as by the President. Absolute immunity is extended

to certain judicial officers which includes prosecutors. In cases where prosecutors have unconstitutionally covered up their improper conduct, or the improper conduct of others, they were not granted immunity. Conferring absolute immunity "would make a mockery of the criminal justice system". Ryland v. Shapiro, 708 F. 2d 967 (5th Cir. 1983). In Barret v. U.S., 798 F.2d 565 (2dCir. 1986), the Second Circuit ruled that the federal attorneys involved in the cover up of crime were not entitled to absolute immunity.

5.4 Absolute immunity is not applicable to private acts committed in violation of criminal law by a private citizen acting in his individual capacity.

An official does not have absolute immunity when he violates 18 USC § 4 in his individual capacity as a private citizen, rather than in his official capacity. "Nixon v. Fitzgerald, 457 U.S. 731, 749,752, and n.32 – provides no support for an immunity for unofficial conduct." Clinton v. Jones, Certiorari to U.S Court of Appeals, 8th Circuit (1997). All citizens, including the President, regardless of position or standing in society, have a duty in terms of 18 USC § 4 to bring known felonies to the attention of some judge or official who will deal with those felonies to prevent and deter the crimes and their harmful effects from continuing. This law contributes to maintaining a civil society. The President, having been fully informed of multiple felonies committed against the Petitioner and the state, and having been adequately capable of bringing these crimes to the attention of the relevant authorities for action by them, maliciously chose not to perform this duty which is required of all citizens by this statute. This was not an omission of an official act alone, but also the unlawful omission of a legal obligation required of every private citizen in this society, including the citizen holding the Office of the President.

Such a wanton personal act does not qualify for official immunity.

5.5 Absolute immunity is not applicable to an official for personal acts in his individual capacity in violation of the common law duties of a private citizen.

[Our form of government asserts] "that even the sovereign is subject to God and the law." 869 F Supp., at 698. Regardless of the status or position of a citizen, common law duty to society demands that a person report known crimes to the relevant authorities for official action, and demands that a person help a fellow citizen who is the victim of a crime to the extent that he can. The President, as private citizen, was in a unique position to assist a fellow citizen who is suffering the harmful effects of ongoing criminal activity committed against him. The President, as private citizen, willfully and maliciously failed to exercise this common law duty. The clear intent was to provide protection to the criminals who are all government officials, except for two (See Court Records 'Dossier of Crimes'). His, (the President's), was a private act of omission by a citizen of the United States acting in his individual capacity in violation of his common law duties towards society. This was not an omission of an official act in violation of common law duty, but the unlawful omission of a civil act required of every private citizen in a civil society, and such a wanton personal act does not qualify for official immunity.

Question: Is the President of the United States immune from civil or criminal liabilities should he rape, or murder, or commit a traffic offense?
Answer: No.

6. Writ of Mandamus

6.1 Requisite for a Writ of Mandamus

For more than two years the President has been aware of a major criminal conspiracy within the government to obstruct and defeat the ends of justice. He was requested on numerous occasions to take care of the faithful execution of the laws of the United States, but he has failed to adhere to his Oath of Office and to his Constitutional duty to take care of the faithful execution of the laws.

As there has been a major failure of the government and judicial system to deal with the conspiracy, the Court of Appeals was petitioned to issue a writ of mandamus to command the President to take care of the faithful execution of the laws. A 1017-page dossier providing prima facie evidence of the conspiracy was filed with the court. The Court of Appeals denied the petition for a writ on the grounds that the petitioner has failed to demonstrate that this situation is extraordinary. The Court of Appeals thus found that 220 government officers from 28 institutions concerned with law enforcement, acting in conspiracy to commit 1.6 million crimes, does not constitute 'extraordinary circumstances'. By implication the court thus found that the situation amounts to an 'ordinary situation' within the American society.

The Petitioner submits that the Court's finding so far departs the norms of society, and departs the principles of just and ethical government enshrined in the Constitution, that this notion warrants overturning by the Supreme Court.

6.2 Violations of law by Court of Appeals judges with respect to the writ of mandamus.

The Court of Appeals Judges are fully aware of 1.6 million crimes perpetrated by 220 officials of government, and that the crimes have not been investigated or prosecuted. The judges are aware that the crimes have been covered up. The judges are aware that the President has failed to act on the crimes, and that he has actively participated in the cover up. Given this knowledge, and the fact that they have failed to command the authority of last resort (the President) to deal with 1.6 million crimes, the failure by Judges Ginsberg, Henderson, and Garland, amounts to criminal acts.

Corruptly obstructing and impeding the due and proper administration of the law is 'Obstruction of Justice'. 18 USC 1505. Having knowledge of the actual commission of a felony, concealing it, and not acting upon it, is 'Misprision of Felony'. 18 USC 4. Knowing that an offense against the United States has been committed, and assisting the offender in order to hinder or prevent his apprehension, trial, or punishment, renders such person an accessory after the fact. 18 USC 3. Judges Ginsberg, Henderson, and Garland, violated all the above laws in denying the writ of mandamus.

Question: Were the Court of Appeals judges acting legally in denying the writ of mandamus which was instituted to command the President to obey the Constitution, and to take care of the faithful execution of the laws?
Answer: No.

REASONS FOR GRANTING PETITION

It is of national interest to the United States that the nation has a just and law abiding government. It is of vital

importance to the nation that its chief executive, the President, obeys the laws and upholds the Constitution. It is essential that the court system administers the laws and provides due process in keeping with its raison d'être.

In this case, however, the government, through its officers and institutions, have shunned the laws, provided protection to criminal elements in its midst, and covered up the crimes. The President has obstructed the course of justice, has joined with this criminal activity, and has failed to abide by the Constitution and the laws thereby engendering a certain brand of tyranny upon the populace. The lower courts have with callous disregard sanctioned these illegal deeds and have protected the perpetrators.

The prominence of a case involving the President and officials of government in criminal activity provides compelling reasons for the Supreme Court to exercise its oversight responsibilities in this case. The shear magnitude of criminality which the lower courts have sanctioned further warrants the Supreme Court's attention. It is imperative for the Supreme Court to intervene and to terminate the ongoing criminal conspiracy within the government and the courts of the United States, and to reinstate this civil case for trial.

These issues present undeniable cause for authoritative judicial resolution at highest level of the questions raised.

CONCLUSION

The judgment rendered in this case by the Court of Appeals is illegal, and is therefore void. The case should be remanded for trial by due process of the law. A writ of mandamus should be issued to command the President to obey the law, to uphold his Oath of Office, and to do his

Constitutional duty to take care that the laws be faithfully executed.

The Supreme Court is requested to address and to terminate the ongoing criminal conspiracy within the government which underpins this case, and bring justice to bear upon the offenders.

The Supreme Court is further requested to appoint an independent counsel to investigate the crimes committed by the President.

Respectfully Submitted,

Anthony P. Keyter (Pro Se)

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APPENDIX 1

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5324 **September Term, 2004**

Filed on February 16, 2005

Anthony P. Keyter,
Appellant

v.

George W. Bush, President
Appellee

BEFORE: Ginsburg, Chief Judge, and Henderson and Garland, Circuit Judges.

ORDER

Upon consideration of the motion for summary affirmance, the response thereto, and the reply; the petition for writ of mandamus and the supplement thereto; the motion for stay of judgment; and the motion to disqualify United States Attorneys, it is

ORDERED that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). Whether appellant is seeking to sue the President in his individual or official capacity, the action is barred by immunity. See Harlow v. Fitzgerald, 457 U.S. 800, 807 (1982), citing Nixon v. Fitzgerald, 457 U.S. 731 (1972)

(for officials, including the President of the United States, whose special functions or constitutional status requires complete protection from suit, the defense of absolute immunity is recognized). Moreover, appellant cannot assert any claim pursuant to 18 U.S.C. §§ 4, 241, and 242, because, as criminal statutes, these statutes do not convey a private right of action. See Rockefeller v. U.S. Court of Appeals for the Tenth Circuit, 248 F. Supp. 2d 17, 20 (D.D.C. 2003). Further, appellant's assertion, that there is a conflict of interest for the U.S. Attorneys to represent the President in this action, has no basis in fact or law. It is

FURTHER ORDERED that the petition for writ of mandamus be denied. A writ of mandamus is "an extraordinary remedy, to be reserved for extraordinary situations." Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988). Mandamus does not lie unless the petitioner's right to relief is "clear and indisputable." And there is "no other adequate means" by which the petitioner may attain the relief he seeks. In re Sealed Case, 151 F.3d 1059, 1063 (D.C. Cir. 1998). Petitioner had failed to demonstrate his entitlement to the extraordinary writ. See Cobell v. Norton, 334 F.3d 1128, 1137 (D.C. Cir. 2003). It is

FURTHER ORDERED that the motion for stay of judgment be denied. Appellant has not satisfied the stringent standards required for a stay pending appeal. See Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); D.C. Circuit Handbook of Practice and Internal Procedures 33 (2002). It is

FURTHER ORDERED that the motion to disqualify United States Attorneys be dismissed as moot, because the same motion was filed in and disposed of by the

district court and considered in the context of the aforementioned motion for summary affirmance.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P.41(b); D.C. Cir. Rule 41.

Per Curiam

APPENDIX 2

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-5324 **September Term, 2004**

Filed on April 25, 2005

Anthony P. Keyter,
Appellant

v.

George W. Bush, President
Appellee

BEFORE: Ginsburg, Chief Judge, and Henderson and Garland, Circuit Judges.

ORDER

Upon consideration of the petition for rehearing (including a motion for recusal) and the motion to Disqualify, it is

ORDERED that the motion to disqualify Chief Judge Ginsberg, and Circuit Judges Henderson and Garland be denied. It is

FURTHER ORDERED that the petition for rehearing be denied.

Per Curiam

FOR THE COURT
Mark J. Langer, Clerk
By: Michael C. Mc Grail
Deputy Clerk/LD

APPENDIX 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANTHONY P. KEYTER,	)	
	)	
Plaintiff,	)	
v.	)	Civ. No.
	)	03-2496
GEORGE W. BUSH,	)	
President of the United States	)	
	)	
Defendant.	)	

OPINION AND ORDER

(Filed on August 6, 2004)

I. INTRODUCTION

Plaintiff Anthony Keyter is proceeding pro se. He seeks damages from Defendant President Bush for "reckless disregard of his statutory duties and violation of Section 3 of Article II of the United States Constitution; violation of 18 U.S.C. § 241; violation of 18 U.S.C. § 242; violation of 18 U.S.C. § 4; and for reckless disregard of his Common Law duties." Compl. at 1. While not entirely clear from the face of the complaint or subsequent pleadings, the crux of plaintiff's Complaint appears to be that President Bush failed to respond to plaintiff's reports of "collusion" in the Washington state court system. Plaintiff states that "evidence of 1239 principal violations and 244,083 counts of conspiracy by 195 Officers of Washington State, and 2 others, was lodged with the U.S. Department of Justice, together with a request to investigate and prosecute these crimes" but "despite the appropriate authorities having full

knowledge of the crimes, the perpetrators enjoyed impunity without intervention of law." *Id.* at 3.[1] Plaintiff also alleges that he sent four letters, including a "970 page Dossier of Crimes" to President Bush "informing him of the crimes and the defeat of justice within Washington State and in the U.S. Department of Justice." *Id.* at 3-4. The letters "contained requests to the Defendant to see to the proper execution of the laws of the country which pertained to this case." *Id.* at 3. Apparently, the President did not respond, as plaintiff initiated the instant suit against the President premised on the theory that the President has "willfully failed his Constitutional duties to take care that the laws be faithfully executed." *Id.* at 4.

Pending before the Court are defendant's Motion to Dismiss the case in its entirety, and plaintiff's Motion to Disqualify the U.S. Attorney on Grounds of Conflict of Interest. Upon careful consideration of the motions, the responses and replies thereto, as well as the governing statutory and case law, and for the following reasons, it is by the Court hereby **ORDERED** that Defendant's motion to dismiss is **GRANTED**; and it is **FURTHER ORDERED** that plaintiff's motion to disqualify the U.S. Attorney is **DENIED**.

II. MOTION TO DISMISS

Defendant moves for dismissal pursuant to Fed. R. Civ. P. 12 (b) (6). Arguing that plaintiff's claims are barred on immunity grounds, the plaintiff fails to state a cause of

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[1] Plaintiff alleges that a judge in the Washington Superior Court "colluded with two others and fraudulently and illegally seized the Plaintiff's assets and a portion of future income." Compl. at 2. He further states that the crimes perpetrated against him in the Washington court system include burglary, perjury, fraud, theft, and tampering with Court evidence. *Id.*

action against the United States under *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics,* 403 U.S. 388 (1971), and the criminal statutes plaintiff invokes do not provide for a private cause of action.

A. Standard of Review

In appraising the sufficiency of a complaint, a court must follow "the accepted rules that a complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson,* 355 U.S. 41, 45-46 (1957); *see also Swierkiewicz v. Sorema,* 534 U.S. 506, 514 (2002) (stating that a court may dismiss a complaint "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations") (quoting *Hishon v. King & Spalding,* 467 U.S. 69, 73 (1984)). For purposes of a motion to dismiss, a court must treat the plaintiff's factual allegations as true, *see e.g., Warth v. Seldin,* 422 U.S. 490, 501 (1975), and must liberally construe the complaint in favor of the plaintiff, *Jenkins v. McKeithen,* 395 U.S. 411, 421-422 (1969).

B. Immunity

Neither the Complaint or plaintiff's subsequent pleadings make clear whether plaintiff seeks to hold the President liable in his personal capacity or in his official capacity. Under either theory, however, the President is immune from the instant suit.

It is well recognized that some government officials, including the President, are absolutely immune from suits for damages. "For officials whose special functions or constitutional status requires complete protection from suit, we have recognized the defense of 'absolute immunity' ... our decisions also have extended absolute immunity to certain officials of the Executive Branch ... [including] the President of the United States." *Harlow v. Fitzgerald,* 457 U.S. 800, 807 (1982) (quoting *Nixon v. Fitzgerald,* 457 U.S. 731 (1972)); *see also Idrogo v. U.S. Army,* 18 F. Supp. 2d 25, 29 (D.D.C. 1998) (recognizing

President's absolute immunity from civil damages actions). Plaintiff argues, unpersuasively, that the President has a duty as a "private citizen" to investigate plaintiff's allegations of illegal activity in the Washington court system. Pl.'s Response to Mot. To Dismiss at 7. The instant suit, however, is, in plaintiff's words, premised on the President's alleged "reckless disregard of his Constitutional and statutory duties;" in essence, an allegation that the President has failed to perform official, Presidential functions. Compl. at 4. Accordingly, it is clear that this case falls squarely into the category of suits from which the President is absolutely immune.[2]

Similarly, if plaintiff is proceeding against the President in his official capacity, the suit is barred on sovereign immunity grounds. Absent a specific waiver by the government, sovereign immunity bars suits for damages against a government official, such as the President, acting in this official capacity. *See, e.g., Clark v. Library of Congress,* 750 F.2d 89, 103 (D.C. Cir. 1984) ("Sovereign immunity ... does bar suits for money damages against officials in their official capacity absent a specific waiver by the government.") (collecting cases). Here, plaintiff alleges that the President acted in reckless disregard of his official duties, and the government has not waived immunity.[3] Accordingly,

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[2] Moreover, if Plaintiff's claim is construed as a Bivens action, it also fails. "To the extent that plaintiff seeks to assert Bivens claims personally against [the President] ... he cannot do so in the absence of any allegation that [the President] ... was personally involved in the decisions that adversely affected plaintiff's rights." Zakiya v. U.S., 267 F. Supp. 2d 47, 56 (D.D.C. 2003) (citing Cameron v. Thornburgh, 983 F.2d 253, 257-58 (D.C. Cir. 1993).

[3] Plaintiff makes vague, conclusory statements about the President's "criminal acts," concluding that because crimes are " acts of unofficial conduct "they do not fall under the shield of immunity. Pl.'s

if plaintiff does seek to proceed against the President in his official capacity, sovereign immunity bars any recovery of money damages.[4]

C. Criminal Counts

Plaintiff also invokes sections of the criminal code, 18 U.S.C. § 241 (Conspiracy Against Rights), 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law), and 18 U.S.C. § 4 (Misprision of Felony), as grounds for damages. However, as defendant correctly points out, these statutes do not provide for a private cause of action. *See, e.g., Rockefeller v. U.S. Court of Appeals Office, for Tenth Circuit,* 248 F. Supp. 2d 17, 22 (D.D.C. 2003) ("the plaintiff is precluded from asserting any claims pursuant to 18 U.S.C. § 242 ... because, as criminal statutes, they do not convey a private right of action."); *see also* 28 U.S.C. § 547 (1) (stating that the United States Attorney "shall prosecute for all offenses against the United States"). Accordingly, these claims must be dismissed pursuant to Fed. R. Civ. P. 12 (b) (6).

III. MOTION TO DISQUALIFY U.S. ATTORNEY

Plaintiff moves to disqualify the United States Attorney on the grounds that the U.S. Attorney has a conflict of interest that precludes the representation of President Bush. Plaintiff's theory – that the U.S. Attorney has a duty to prosecute the President for alleged crimes and thus the U.S. Attorney cannot also defend the President in the instant

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Response to Mot. To Dismiss at 5. However, plaintiff points to absolutely no evidence of illegal activity on the part of the President; accordingly, the Court does not credit this argument.

[4] If Plaintiff is attempting to proceed on a tort theory of negligence, he has failed to comply with the conditions of the Federal Tort Claims Act, namely bringing suit against the United States rather than a named official. See 28 USC 2671 et seq.

action –is utterly without merit.[5] As defendant correctly argues, the United States Attorney is acting within his statutory authority in representing the President. *See* 28 U.S.C. § 547 (2) ("Except as otherwise provided by law, each United States attorney, within his district, shall (1) prosecute for all offenses against the United States; (2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned ...."). Accordingly, plaintiff's motion to disqualify the U.S. Attorney is denied.

IV. CONCLUSION

For the reasons set forth above, it is hereby

ORDERED that defendant's motion to dismiss is **GRANTED**; and it is

FURTHER ORDERED that plaintiff's motion to disqualify the U.S. Attorney is **DENIED**; and it is

FURTHER ORDERED AND ADJUDGED that the Clerk shall enter final judgment in favor of defendant and against plaintiff on all claims; and it is

FURTHER ORDERED that the Clerk of the Court is directed to remove this case from the active calendar of the Court.

Signed: **Emmet G. Sullivan**
United States District Judge
August 6, 2004

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[5] Plaintiff erroneously relies on D.C. Rule of Professional Conduct 1.7, arguing that the United States Attorney "would be acting in conflict of interest if he 'advances two or more adverse positions in the same matter.'" Pl.'s Reply at 2 (quoting Rule 1.7)

APPENDIX 4

The "Dossier of Crimes" filed with the United States Supreme Court, and with the Court of Appeals for the District of Columbia Circuit, provides prima facie evidence of violations of the laws listed below.

1. Fourteenth Amendment, US Constitution
2. Article 3, Washington State Constitution
3. Conspiracy against Rights, 18 USC § 241
4. Conspiracy to commit an offense, USC 18 § 371
5. Deprivation of Rights, 18 USC § 242
6. Misprision of Felony, 18 USC § 4
7. Obstruction of Justice, 18 USC § 1505
8. Accessory after the Fact 18 USC § 3
9. Burglary - RCW 9A.52.025
10. Perjury - RCW 9.72
11. Fraud - RCW 9, 9A
12. Intent to Defraud - RCW 10.58.040
13. Theft - RCW 9A.56.030
14. Tampering with Physical Evidence - RCW 9A.72.150
15. Rendering criminal assistance - RCW 9A.76.080
16. Failure of duty by public official - RCW 42.20.100
17. Failure of judge to recuse - 2.28.030
18. Official Misconduct - RCW 9A 80.010
19. False report by public official - RCW 42.20.040
20. Oath of Office
21. Legislative Declaration - RCW 42. 52. 900
22. Perjury - RCW 9A.72
23. Perjury - Inconsistent statements -RCW 9A.72.050
24. Statements of what one does not know to be true - RCW 9A.72.080
25. False swearing - RCW 9A.72.040
26. False Representation - RCW 9.38
27. False representation concerning title - RCW 9.38.020
28. Separate property of husband - RCW 26.16.010

29. Separation contract - RCW 26.09.070
30. Unfair distribution of assets - RCW 26.09.080
31. Rights of Married Persons in General - RCW 26.16.150
32. Regarding Foreign Law - RCW5.44.050
33. International Law of Contract
34. Maintenance Orders - RCW 26.09.090
35. Payment of Costs - RCW 26.09.140
36. Changing of divorce decree after trial

APPENDIX 5

The Petitioner made nine hundred and twenty (920) individual written requests to officials from thirty-two (32) pertinent institutions of government to enforce the laws. All of the officers approached had a legal duty to take action upon the requests. Washington State Officers had a general duty to act in terms of Section 3 of the State Constitution and RCW 42. 52. 900. Some explicit laws that impose duties upon specific officers are also listed.

1. City of Gig Harbor Police. Duties: RCW 10.93.020.1
2. City of Tacoma Police. Duties: RCW 10.93.020.1
3. Pierce County Sheriff. Duties: RCW 10.93.020.1
4. Washington State Patrol. Duties: RCW 10.93.020.1
5. FBI
6. City of Gig Harbor Prosecutor.
7. Pierce County Prosecutors.
8. Councilors of Pierce County.
9. Councilors of the City of Tacoma.
10. Washington State Executive. Duties: Office of the Governor, Lt. Governor, and Secretary of State. Duties: RCW 43.06.010
11. Washington State Attorney General: Duties: RCW 43.010.090
12. Washington State Senate.
13. Washington State Senate Judiciary Committee.
14. Washington State House of Representatives.
15. Washington State House Judiciary Committee.
16. Washington State Chief Justice.
17. Washington State Commission on Judicial Conduct. Duties: RCW 42.52.370 and RCW 2.64
18. Washington State Commission on Gender and Justice.

19. Washington State Superior Court Judges Association.
20. Washington State Bar Association
21. Washington State Legislative Ethics Committee. Duties: RCW 42.52.320
22. Washington State Executive Ethics Committee. Duties: RCW 42.52.360
23. Pierce County Ethics Committee.
24. US Attorney, Seattle. Duties: 28 USC 547
25. US Attorney, District of Columbia. Duties: 28 USC 547
26. US Department of Justice, Civil Rights Division
27. US Department of Justice, Criminal Division
28. US Senate
29. US Senate Committee on the Judiciary
30. US House of Representatives.
31. US House of Representatives Committee on the Judiciary
32. US Executive. Duties: US Constitution, Article II § 3

APPENDIX 6

STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION

United States Constitution, Article II, Section 1.1
States in relevant part that: "The Executive power shall be vested in a President of the United States of America".

United States Constitution, Article II, Section 1.7
Section 1.7 of Article II states that before he (the President) enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of the President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States".

United States Constitution, Article II, Section 3
Section 3 states in relevant part that: "The president ... shall take care that the laws be faithfully executed."

United States Constitution, Amendment XIV, Section 1
"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

FEDERAL STATUTES

18 USC § 3 States in relevant part: "whoever, knowing that an offense against the United States has been committed" "assists the offender in order to hinder or prevent his apprehension, trial, or punishment, is an accessory after the fact".

18 USC § 4 Misprision of felony states that: "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States" is guilty of 'Misprision of Felony'.

18 USC § 241 States in relevant part: "If two or more persons conspire to ...oppress...any person in any State...in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States...they shall be fined under this title or imprisoned not more than ten years".

18 USC § 242 States in relevant part: "Whoever, under color of law.... willfully subjects any person in any State... to the deprivation of any rights... secured by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year".

18 USC § 371 States in relevant part: "If two or more persons conspire either to commit any offense against the United States" "and one or more such persons do any act to effect the object of the conspiracy" each is guilty of Conspiracy to Commit Offense.

18 USC § 1505 States in relevant part: "Whoever corruptly" "influences, obstructs, or impedes" "the due and proper

administration of the law under which any pending proceeding is being had before any department or agency of the United States" is guilty of Obstruction of Justice.

18 USC § 1509 States in relevant part: whoever "willfully prevents, obstructs, impedes, or interferes with" "the performance of duties under any order of a court of the United States" is guilty of obstruction of justice.

18 USC § 3041 States in relevant part: "for any offense against the United States, the offender may, by any justice or judge of the United States ... be arrested and imprisoned".

28 USC § 144 "Whenever a party to a proceeding in a court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding."

28 USC § 453 Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, ..., do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ... under the Constitution and laws of the United States. So help me God."

28 USC § 455 States in relevant part: " (a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

28 USC § 535 States in relevant part: "Any information, allegation, or complaint received in a department or agency

of the executive branch of the government relating to violations of title 18 involving Government Officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless (1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of the law;"

28 USC § 544 "Each United States attorney, assistant United States attorney, and attorney appointed under section 543 of this title, before taking office, shall take an oath to execute faithfully his duties".

28 USC § 547 States in relevant part: "Except as otherwise provided by law, each United States Attorney, within his district, shall (1) Prosecute for all offenses against the United States; "

28 USC § 591 States in relevant part: (a)...."—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in section (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction." (b)....."The persons referred to in subsection (a) are : (1) The President and Vice President;"

28 USC § 1254 "Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; (2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding

instructions or require the entire record to be sent up for decision of the entire matter in controversy".

FEDERAL RULES

Federal Rules of Criminal Procedure, Rule 4.
Rule 4 (a) states: "If the complaint or one or more affidavits filed with the complaint establishes probable cause to believe an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it. Rule 4 (c) states: Such warrant must "command that the defendant be arrested and brought without unnecessary delay before a judge".

Supreme Court Rule 10 States in relevant part: "A United States Court of Appeals ...has so far departed from the accepted and usual course of judicial proceedings, or has sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;"